

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ANDREW LEHMAN
5800 Medallion Dr. E
Westerville, Ohio 43082

Plaintiff,

VS.

STELLAR RECOVERY, INC.
1845 US Highway 93 S.
Suite 310
Kalispell, Montana 59901-5721

Defendant.

No.

JURY DEMAND ENDORSED HEREON

VERIFIED CIVIL COMPLAINT

(Unlawful Debt Collection Practices)

COMPLAINT

COMES NOW the Plaintiff, ANDREW LEHMAN (“Plaintiff”), by and through his attorneys, KROHN & MOSS, LTD., and for Plaintiffs’ Complaint against Defendant, STELLAR RECOVERY, INC, allege and affirmatively state as follows:

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

3. Because Defendant conducts business in the state of Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).
5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

6. Plaintiff is a natural person who resides in the City of Westerville, County of Delaware, State of Ohio and is obligated or allegedly obligated to pay a debt and is a “consumer” as that term is defined by 15 U.S.C. 1692a(3).

7. Plaintiff is informed and believes, and thereon alleges, that Defendant is a company with a business office in the City of Kalispell, County of Flathead, State of Montana.

8. Plaintiff is informed and believes, and thereon alleges, that Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

9. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.

10. Defendant places collection calls to Plaintiff at 614-325-8028.

11. Defendant leaves Plaintiff voicemail messages requesting Plaintiff to return the call to 866-860-9153 (See transcribed a voicemail message attached as Exhibit A).

12. Defendant placed collection calls to Plaintiff’s father at 614-899-2002.

13. Defendant leaves voicemail messages on Plaintiff’s father’s voicemail at his place of employment that indicate that Plaintiff owes a debt (See a transcribed voicemail message attached

as Exhibit B).

14. Defendant called Plaintiff's father more than once.

15. Plaintiff's father informed Defendant that Plaintiff cannot be reached at his telephone number, but Defendant continued to call.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT,
(FDCPA), 15 U.S.C. § 1692 et seq.

16. Plaintiff repeats, reallages and incorporates by reference all of the foregoing paragraphs.

17. Defendant **violated the FDCPA**. Defendant's violations include, but are not limited to the following:

- a) Defendant violated the FDCPA § 1692b(1) when Defendant, through its agents and employees, failed to identify itself and stating that it is confirming or correcting location information concerning Plaintiff when speaking with Plaintiff's father.
- b) Defendant violated the FDCPA § 1692b(2) when Defendant, through its agents and employees, communicated with Plaintiff's father and indicated that Plaintiff owes a debt.
- c) Defendant violated the FDCPA § 1692b(3) when Defendant, through its agents and employees, communicated with Plaintiff's father more than once when not requested to do so and without reasonable belief that his earlier response was erroneous or incomplete.
- d) Defendant violated the FDCPA § 1692d when Defendant, through its agents and employees, engaged in conduct the natural consequence of which is to harass,

oppress, and abuse Plaintiff.

- e) (5) Defendant violated the FDCPA § 1692d(5) when Defendant, through its agents and employees, placed an excessive amount of collection calls and caused Plaintiff's telephone to ring with the intent to abuse, annoy and harass.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

18. Declaratory judgment that the Defendant's conduct violated the FDCPA.
19. Actual damages.
20. Statutory damages of \$1000.00 pursuant to the FDCPA 15 U.S.C. 1692k.
21. Costs and reasonable attorney's fees pursuant to the FDCPA, 15 U.S.C. 1692k.
22. Any other relief that this court deems to be just and proper.

RESPECTFULLY SUBMITTED,

By: /s/ Peter Cozmyk
Peter Cozmyk,
Attorney for Plaintiff

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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ANDREW LEHMAN, hereby demand trial by jury in this action.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO)

Plaintiff, ANDREW LEHMAN, says as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, ANDREW LEHMAN, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 10/7/2009


Andrew Lehman,
Plaintiff

EXHIBIT A

ANDREW LEHMAN v. STELLAR RECOVERY, INC.

This message is for Andrew Lehman. If you are not Andrew Lehman, please hang up or disconnect. If you are Andrew Lehman please continue to listen this message. There will now be a three-second pause in this message. By continuing to listen to this message you acknowledge that you are Andrew Lehman. You should not listen to this message, so that other people can hear it, as this contains personal and private information. There will now be a three-second pause in this message to allow you to listen to this message in private. This is Stellar Recovery Incorporated at 866-860-9153. This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. Please contact me about an important business matter at 866-860-9153. Goodbye.

EXHIBIT B

ANDREW LEHMAN v. STELLAR RECOVERY, INC.

This message is for Andrew Lehman. If you are not Andrew Lehman, please hang up or disconnect. If you are Andrew Lehman please continue to listen this message. There will now be a three-second pause in this message. By continuing to listen to this message you acknowledge that you are Andrew Lehman. You should not listen to this message, so that other people can hear it, as this contains personal and private information. There will now be a three-second pause in this message to allow you to listen to this message in private. This is Stellar Recovery Incorporated at 866-860-9153. This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. Please contact me about an important business matter at 866-860-9153. Goodbye.